

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION**

IN RE:

BETTY JANE KING

KEVIN RAYMOND KING

DEBTORS

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CASE NO. 09-81514

CHAPTER 13

**CONSENT ORDER
RESOLVING MOTION FOR RELIEF FROM AUTOMATIC STAY**

THIS CAUSE coming on to be heard before the undersigned Bankruptcy Judge, and it appearing to the Court that Wells Fargo Bank, NA (hereinafter “Creditor”), and the Debtors have agreed and consented to the entry of this Order allowing the conditional relief from the automatic stay pursuant to the agreement of the parties as set forth below:

NOW THEREFORE, with the agreement and consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. On September 1, 2009, Betty Jane King and Kevin Raymond King (hereinafter “Debtors”), filed a petition with the Bankruptcy Court in the Middle District of North Carolina under Chapter 13 of Title 11 of the United States Code.
2. On the date the petition was filed, the Debtors were the owners of real property located at 2633 John Brewer Road, Leasburg, North Carolina 27291 (hereinafter “Property”).
3. The Property is subject to the first lien of the Creditor by a Deed of Trust recorded in the Caswell County Public Registry (“Deed of Trust”).
4. Said Deed of Trust secures a Note in the original principal amount of \$63,691.00.

5. The Debtors have defaulted in mortgage payments to be made outside of the Plan. The amount of the default as of March 31, 2012, is \$749.08. A breakdown of the arrearages is as follows:

2 payments @ \$547.78 (2/12 - 3/12)	\$1,095.56
2 late charges @ \$17.17	\$34.34
Less Suspense of	\$-346.48
Attorney Fees & Cost	\$526.00
Total Delinquency	\$1,309.42

6. The failure to make regular monthly payments under the Note is a violation of 11 U.S.C. §1322 (b)(2).

7. The Creditor and the Debtors have agreed and consented to entry of this Order as shown by the signatures of counsel for the parties appearing below.

NOW THEREFORE, by virtue of the law and by reason of the premises aforesaid, and the consent of the parties, it is Ordered, Adjudged and Decreed as follows:

A. The Debtors shall resume regular monthly mortgage payments (currently \$547.78) to the Creditor beginning with the April 1, 2012 payment and continuing each month thereafter as said mortgage payments come due pursuant to the Note and Deed of Trust. The monthly payment changes to \$579.24 beginning with the May 1, 2012 payment.

B. The Debtors shall cure the post-petition arrearage and attorney fees and cost totaling \$1,309.42 by submitting an additional payment in the amount of \$218.24 each month beginning May, 2012 and continuing with a like payment each month through and including October, 2012.

C. In the event the Debtors shall fail to make any payments required by Paragraphs A and B during the 12 months following the entry of this order, on or before thirty (30) days after such payment first comes due, the Creditor shall be deemed to have relief from the automatic stay in order to pursue any remedies it may have against its collateral pursuant to applicable state law without the necessity of further notice or hearing in order that Wells Fargo Bank, NA, or any successor-in-interest shall be allowed to proceed to foreclosure under the Deed of Trust referred to above. In the event the automatic stay is lifted, the Creditor shall be permitted to communicate with the Debtors and Debtor's counsel to the extent necessary to comply with applicable non-bankruptcy law.

D. In the event that a default does occur, Creditor shall be entitled to collect all attorney fees and costs incurred in connection with such default. In the event that this

case is dismissed or discharged, Creditor shall be free to enforce its legal remedies notwithstanding this Stipulation.

E. The automatic stay will be modified immediately upon the Debtor's default and the waiting period pursuant to Rule 4001 will not apply.

F. In the event that relief occurs pursuant to the default provisions of the Order, Creditor will have 120 days therefrom to file any amended or other proof of claim for deficiency related to the indebtedness which is the subject of this Order.

<u>/s/ Sean M Corcoran</u> Sean M. Corcoran Brock & Scott, PLLC Attorney for Creditor	<u>/s/ Neil M. O'Toole</u> Neil M. O'Toole Attorney for Debtors	<u>/s/ Richard M. Hutson, II</u> Richard M. Hutson, II Chapter 13 Trustee No Objection
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Parties to be Served:
09-81514

Kevin Raymond King
Betty Jane King
2633 John Brewer Rd.
Leasburg, NC 27291

Neil M. O'Toole
P.O. Box 1109
Durham, NC 27702

Richard M. Hutson, II
Chapter 13 Office
P.O. Box 3613
Durham, NC 27702

Sean M. Corcoran
Brock & Scott, PLLC
5121 Parkway Plaza Blvd.
Charlotte, NC 28217